



4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0271]

Hours of Service of Drivers: RJR Transportation, Inc.; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from RJR Transportation, Inc. (RJR) requesting an exemption to increase the 100 air-mile radius in “short-haul operations” to 150 air-miles for its drivers. This would enable the drivers not exceeding the 150 air-mile radius to utilize time records instead of a complete record of duty status (RODS) for that day. RJR believes that the exemption, if granted, will achieve a level of safety equivalent to the level that would be achieved absent the exemption. FMCSA requests public comment on RJR’s application for exemption.

DATES: Comments must be received on or before **INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2018-0271 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-2722; E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2018-0271), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number, "FMCSA-2018-0271" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

RJR Transportation, Inc. (RJR), USDOT 629200, is requesting an exemption to increase the 100 air-mile radius in 49 CFR 395.1(e)(1) to 150 air-miles for its drivers. This would enable the drivers not exceeding the 150 air-mile radius to utilize time records instead of a complete record of duty status (RODS) for that day.

RJR is a local trucking operation based in Northern California operating on dedicated routes, with more than 98 percent of its trips within the 100 air-mile radius,

short-haul exception. RJR primarily operates commercial motor vehicles (CMVs) with a gross vehicle weight rating (GVWR) over 55,000 pounds.

Most of RJR's drivers qualify for and operate under the 100 air-mile radius exemption in 49 CFR 395.1(e)(1); on a weekly or monthly basis, fewer than 5 percent of its drivers may exceed the 100 air-mile radius but not a 150 air-mile radius. Specifically, RJR services three areas outside the 100 air-mile radius which are all between 100 to 140 air-miles from the normal work reporting location. RJR states that it will be forced to make a substantial investment in updating its vehicle fleet to include electronic logging devices (ELDs) for just this short extension of the 100 air-mile radius.

Currently, RJR has five drivers who maintain paper RODS, but all of its 60 CMVs need to be equipped with ELDs in order to give the company the flexibility to put any driver in any vehicle, as it does now. Local pickup and delivery services operate under significantly different circumstances than interstate or long-haul over-the-road truck drivers. This not only presents a substantial and ongoing financial commitment in updating its fleet, but it also creates an additional regulatory requirement that will have to be managed on a daily basis.

RJR states in its application that in order to insure an equivalent level of safety, it will continue to require its drivers to attend and participate in monthly safety

meetings, including the promotion of safety through the company's Safety Incentive Program rewarding drivers for driving records free from accidents and moving violations. RJR will further continue to utilize continuous automatic event recorders, which capture among other things, speed, global positioning system location, hard braking events, and sudden turns. RJR believes that granting the exemption will achieve a level of safety equivalent to the level that would be achieved absent the proposed exemption. A copy of RJR's application for exemptions is available for review in the docket for this notice.

Issued on: October 12, 2018.

Larry W. Minor,

Associate Administrator for Policy.

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